

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

RICHARD A. MASON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	14-CV-282-KEW
	)	
1) MAURITA T. DUNN;	)	
2) SCHNEIDER NATIONAL CARRIERS, INC., and,	)	
3) LIBERTY MUTUAL INSURANCE	)	
COMPANY,	)	
Defendants.	)	

**JOINT STATUS REPORT**

Pursuant to Federal Rules of Civil Procedure 26(f) a meeting was held on August 22, 2014, by telephone. Plaintiff appears by counsel, Charles Gregory Smart, and Defendant appears by counsel, Michael O'Malley.

1. Summary of Claims:

This is an action for personal injuries and lost wages arising out of a vehicular collision that occurred on October 11, 2011 in Love County, Oklahoma. Maurita Dunn, driving for Schneider National Carriers, Inc., was northbound on I-35. Plaintiff, Richard Mason, also northbound, collided into the rear of the Schneider trailer.

Plaintiff alleges that Defendant Dunn was traveling dangerously slower than the 70 mph posted speed limit when the collision occurred in the lane of highway travel. Plaintiff Mason alleges that Defendant Dunn was negligent and negligent per se, including among other negligent actions, for traveling on the highway at such a slow speed. Plaintiff also alleges that Defendant Dunn's employer, Schneider National Carriers, Inc., is vicariously liable for Defendant Dunn's actions given that Dunn was in the course and scope of employment at the time of the collision. Plaintiff has also brought a direct action claim against Liberty Mutual Insurance Company, given that the insurance company is jointly liable to the Plaintiff as the insurance company for Defendant Motor Carrier, Schneider National Carriers, Inc.

Plaintiff Mason broke both legs (right femur, left patella and left tibia), broke six ribs, lacerated a kidney (resulting in blood thinners), broke his nose, pulled muscles, tore his left shoulder rotator cuff, injured his hands and has scarring. He has incurred approximately \$320,000 in medical bills. His lost wages claim is approximately \$40,000. Plaintiff Mason's damages are ongoing and he claims he still suffers from a great deal of constant pain in both of his legs.

Trooper Anderson, although coming to the supposed conclusion that Plaintiff Mason was “apparently sleepy”, never talked to Plaintiff Mason about the collision, given the severity of his injuries, either before or after generating his report. Plaintiff Mason was the sole occupant in his vehicle; therefore, Plaintiff’s fiancé would not have any idea of her husband’s state of alertness or what happened before and leading up to the time of the collision.

2. Summary of Defenses:

Defendants deny Plaintiff’s contention of negligence. Plaintiff’s injuries are the direct and proximate result of Plaintiff Mason’s own contributory negligence and/or fault. In evaluating the “unsafe/unlawful contributing factors” to the accident, Trooper Anderson on the Oklahoma Highway Patrol noted that Mr. Mason was “apparently sleepy” and found no improper action on behalf of Defendant Dunn. The trooper’s interview with Mason’s fiancé indicated that he had been working long hours at a casino prior to the accident.

3. Stipulations:

A. Jurisdiction Admitted:     X     Yes            No Explain:

B. Venue appropriate:     X     Yes            No Explain:

C. Facts: Defendant Maurita Dunn was an agent, servant or employee of Schneider National Carrier, Inc. and was working in the course and scope of her employment at all relevant times.

D. Law:

4. Discovery Plan: The parties jointly propose to the Court the following discovery plan: (Use separate paragraphs or subparagraphs as necessary if parties disagree.)

Discovery will be needed on the following subjects:  
Plaintiff’s claims of liability/causation; Plaintiff’s claimed damages.

All discovery commenced in time to be completed by February 27, 2015

Maximum of 25 interrogatories by each party to any other party.  
Responses due 30 days after service.

Maximum of 25 requests for admission by each party to any other party.  
Responses due 30 days after service.

Maximum of 8 depositions by Plaintiff and 8 by Defendant.

Each deposition limited to maximum of 6 hours unless extended by

agreement of parties.

5. All parties consent to trial before Magistrate Judge?

      X       Yes                      No (If yes is marked you must sign and file a consent form.)

6. Settlement Plan:

Settlement Conference requested after December 1, 2014.

Other ADR (explain)

7. Estimated Litigation Costs:

A. Plaintiff

(1) Through discovery cutoff	\$	<u>25,000.00</u>
(2) Discovery cutoff through trial	\$	<u>25,000.00</u>
(3) Appeal	\$	<u>10,000.00</u>
Total	\$	<u>60,000.00</u>

B. Defendant

(1) Through discovery cutoff	\$	<u>15,000.00</u>
(2) Discovery cutoff through trial	\$	<u>20,000.00</u>
(3) Appeal	\$	<u>10,000.00</u>
Total	\$	<u>45,000.00</u>

**GRAND TOTAL (All Parties)** \$ 105,000.00

Actual amount in controversy:

An amount in excess of \$75,000, including but not limited to \$320,815.31 in medical expenses, and continuing; lost wages of \$30,128.76, and continuing; and whatever a jury decides is reasonable for any permanent impairment, disfigurement and/or disabilities and including Plaintiff's pain and suffering claim given that damages are ongoing.

APPROVED:

Respectfully submitted,

CARR & CARR, ATTORNEYS

s/ Charles Gregory Smart (by filing attorney with permission)  
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- and -

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**ATTORNEYS FOR DEFENDANTS  
SCHNEIDER NATIONAL CARRIERS, INC.,  
LIBERTY MUTUAL INSURANCE  
COMPANY AND MAURITA DUNN**